

FREEDOM COURT REPORTING

Page 1

1
2 IN THE UNITED STATES DISTRICT COURT
3 FOR THE MIDDLE DISTRICT OF ALABAMA
4 EASTERN DIVISION

5 CIVIL ACTION NO.: 3:05-CV-0681-C
6

7 EMORY STEVE BROWN,

ORIGINAL

8 Plaintiff,

9 vs.

10 CLAIMS MANAGEMENT, INC.,

11 Defendants.

12 DEPOSITION OF: EMORY S. BROWN

13 11:25 A.M.

14 APRIL 10, 2006

15 In accordance with Rule 5(d) of The
16 Alabama Rules of Civil Procedure, as
17 Amended, effective May 15, 1988, I, Cindy
18 C. Goldman, am hereby delivering to
19 Mr. Jeffrey A. Brown the original
20 transcript of the oral testimony taken on
21 the 10th day of April, 2006.
22
23

FREEDOM COURT REPORTING

Page 2

S T I P U L A T I O N S

IT IS STIPULATED AND AGREED by and between the parties through their respective counsel that the deposition of Emory S. Brown, a witness in the above-entitled cause may be taken before Cindy C. Goldman, a Court Reporter and Notary Public for the State of Alabama, at 739 Main Street, Roanoke, Alabama, on the 10th day of April, 2006, commencing at 11:25 a.m., pursuant to the Alabama Rules of Civil Procedure.

IT IS FURTHER STIPULATED AND AGREED that the signature to and the reading of the deposition by the witness is waived, the deposition to have the same force and effect as if full compliance had been had with all laws and rules of court relating to the taking of the depositions.

FREEDOM COURT REPORTING

Page 3

S T I P U L A T I O N S

(continued)

IT IS FURTHER STIPULATED AND AGREED that it shall not be necessary for any objections to be made by counsel to any questions except as to form or leading questions, and that counsel for the parties may make objections and assign grounds at the time of trial or at the time said deposition is offered in evidence or prior thereto.

IT IS FURTHER STIPULATED AND AGREED that the notice of filing of the deposition is waived.

FREEDOM COURT REPORTING

Page 4

A P P E A R A N C E S

Appearing On Behalf Of The Plaintiff:

MR. JOHN A. TINNEY

Attorney at Law

739 Main Street

Roanoke, Alabama 36274

Appearing On Behalf Of The Defendant:

CARLOCK, COPELAND, SEMLAR

& STAIR, L.L.P.

Mr. Jeffrey A. Brown

Post Office Box 139

1214 First Avenue

Suite 400

Columbus, Georgia 31901

Reported By:

Cindy C. Goldman

Freedom Court Reporting

367 Valley Avenue

Birmingham, Alabama 35209

FREEDOM COURT REPORTING

Page 5

I N D E X

Witness:	Page
Emory S. Brown	
Examination by Mr. Brown.....	6
Reporter's Certificate.....	179

E X H I B I T S

(No exhibits were marked for
identification, offered, or
attached to the deposition.)

FREEDOM COURT REPORTING

Page 6

1 I, Cindy C. Goldman, a Court
2 Reporter and Notary Public for the State
3 of Alabama, acting as Commissioner,
4 certify that there came before me at 739
5 Main Street, Roanoke, Alabama, on April
6 10th, 2006, beginning at 11:25 a.m, Emory
7 S. Brown, witness in the above cause, for
8 oral examination, whereupon the following
9 proceedings were had:

10
11 EMORY S. BROWN

12 Having been first duly (affirmed) sworn,
13 testified as follows:

14 COURT REPORTER: Usual
15 Stipulations?

16 MR. BROWN: This is the
17 discovery deposition of Emory Steve
18 Brown, taken pursuant to the Federal
19 Rules of Civil Procedure, utilized for
20 all purposes allowed thereunder.

21
22 EXAMINATION BY MR. BROWN:

23 Q. Mr. Brown, good morning.

FREEDOM COURT REPORTING

Page 7

1 A. Good morning.

2 Q. It's still morning here. I'm on
3 eastern time, so if I start talking about
4 morning and afternoon, it's just because
5 I'm a little bit further west than I
6 usually am.

7 A. Yeah.

8 Q. My name is Jeff Brown. And as
9 far as I know, we're not related?

10 A. No, not as far as I know.

11 Q. Okay. If we are, I wouldn't --
12 I would tell you I'm sorry to have to be
13 related to me.

14 A. Yeah. All my people on my
15 daddy's side just about is dead.

16 Q. Really?

17 A. Yeah. I ain't got that Browns
18 I'm kin to.

19 Q. Well, I represent Claims
20 Management, Incorporated, the Defendant
21 in this lawsuit. And they are the
22 worker's compensation administrator for
23 your employer, Wal-Mart. Do you

FREEDOM COURT REPORTING

Page 8

1 understand that?

2 A. Yeah.

3 Q. I'm going to ask you some
4 questions this afternoon. If I ask you a
5 question that you don't understand, which
6 sometimes I'll ask confusing questions,
7 just stop me and let me restate it --

8 A. All right.

9 Q. -- because I want to make sure
10 that you know exactly what I'm looking
11 for. Okay?

12 A. All right.

13 Q. And the court reporter is
14 right -- is typing everything down. So,
15 if you would, speak up --

16 A. All right.

17 Q. -- so she can hear you and I can
18 hear you.

19 A. Okay.

20 Q. All right. And if you need to
21 take a break at any time, just let me
22 know. I know you've got some circulatory
23 problems with your legs.

FREEDOM COURT REPORTING

Page 9

1 A. Yeah. I had an artificial
2 artery put in my leg and had a stint put
3 in my heart too.

4 Q. So, if you need to take a break,
5 just let me know. Tell me first off,
6 what is your home phone number?

7 A. I don't have a home phone
8 number. I haven't had one in six or
9 seven years. I use my mother-in-law's,
10 next door neighbor's. That's my
11 mother-in-law. I use her phone.

12 Q. Okay.

13 A. (334)863-6195. She lives just
14 right down the road from me.

15 Q. All right. Do you have a cell
16 phone?

17 A. Huh-uh.

18 Q. That's no?

19 A. I don't have no phone.

20 Q. If you have to conduct any
21 business utilizing a telephone, you got
22 to -- this is your mother-in-law's?

23 A. Mother-in-law. Either that or

FREEDOM COURT REPORTING

Page 10

1 my mother's house.

2 Q. What's your mom's phone number?

3 A. 863-6348.

4 Q. Okay.

5 MR. TINNEY: You can continue
6 on, Jeff. I'll be right back.

7 Q. (By Mr. Brown) And if you -- do
8 you ever make any phone calls from any
9 businesses or anything like that?

10 A. No. I hardly ever even use the
11 phone unless I have to call the lawyer's
12 office or the doctors or something
13 another like that. That's about the only
14 time I use one.

15 Q. Well, in this particular case,
16 we're here predominantly talking about
17 conversations that you did or may have
18 had with somebody out at CMI. Where
19 would you have made those phone calls
20 from?

21 A. I made all my phone calls from
22 my mother-in-law's house.

23 Q. Okay. All right. So, any --

FREEDOM COURT REPORTING

Page 11

1 and you didn't have any conversations
2 with anybody other than by telephone
3 about your surgery and your shoulder; is
4 that right?

5 A. Other than Victoria from
6 workman's comp.

7 Q. Okay. And she would -- did she
8 ever call you?

9 A. Yeah, she would call.

10 Q. Okay. How would she call you?

11 A. On my mother's phone.

12 Q. Okay.

13 A. Mother-in-law's phone number.

14 Q. And would they leave a message?

15 A. Uh-huh.

16 Q. And then you'd call back?

17 A. And she'd come tell me, and I'd
18 go call them back if needed to get in
19 touch with me.

20 Q. Okay.

21 A. When they set up my doctor's
22 appointments and first one thing and then
23 the other.

FREEDOM COURT REPORTING

Page 12

1 Q. Did you talk to her a pretty
2 good bit, Victoria?

3 A. Yeah, I talked to her just about
4 every week because I stayed in pain so
5 long, and he wanted to -- that doctor
6 they sent me to wanted to do surgery on
7 November the 1st, and she kept putting it
8 off, kept wanting two more doctors to see
9 the MRIs. And she just kept putting it
10 off and putting it off. I'd call every
11 week, and she'd say, "We're working on
12 it. We're working on it." But I was
13 still in pain, having to work every
14 night. They was wanting me to come up
15 there with one arm every night.

16 Q. Well, we'll talk about some of
17 those conversations in a little bit
18 greater detail as we get into this.

19 What is your address?

20 A. I get all my mail at Post Office
21 Box 145.

22 Q. Well, I was going to ask you the
23 street address of where you live.

FREEDOM COURT REPORTING

Page 13

1 A. I live on 460 Pine Valley Drive.
2 But I don't get any mail there. I get
3 all my mail at the Post Office.

4 Q. And is that Roanoke?

5 A. Uh-huh (affirmative). Post
6 Office Box 145, Roanoke 36274.

7 Q. 145?

8 A. Uh-huh. That's where I get all
9 my mail.

10 Q. And, if you would, says yeses or
11 no's. Uh-huh's and huh-uh's are kind of
12 hard to tell --

13 A. Okay.

14 Q. -- what you said later on down
15 the road. How long have you lived on
16 Pine Valley Drive?

17 A. I've been over there about 22
18 years.

19 Q. Who lives there with you?

20 A. Just my wife. My kids are
21 grown.

22 Q. That's Deborah?

23 A. Deborah Brown.

FREEDOM COURT REPORTING

Page 14

1 Q. What are your children's name?

2 A. I've got Steven Daniel Brown and
3 Benjamin Adam Brown.

4 Q. How old is Steven?

5 A. He's 30. And the baby is 29.

6 Q. Do they both live in Roanoke?

7 A. Yeah.

8 Q. Okay. What is your date of
9 birth?

10 A. 8/24/55. Well, my youngest son
11 lives up there close to Taylors
12 Crossroads. It's a little outside of
13 Roanoke.

14 Q. That's north of here, though;
15 right?

16 A. Yeah. Taylors Crossroads is
17 where he lives. And my oldest son lives
18 on -- I can't think of the name of the
19 road.

20 Q. That's okay.

21 A. Both of them is just a little
22 bit outside of Roanoke, but they're right
23 close to Roanoke.

FREEDOM COURT REPORTING

Page 15

1 Q. Both of them live in Randolph
2 County?

3 A. Yeah.

4 Q. Is Taylor's Crossroads before
5 you get to Wedowee?

6 A. Yeah. You go up here and hit --
7 ain't that 87 up that way?

8 MR. TINNEY: 59.

9 THE WITNESS: 59. And you go up
10 there to the first cross road and take a
11 left, and he lives out there on the left.

12 Q. (By Mr. Brown) All right.
13 That's fine. Where did you live before
14 Pine Valley Drive?

15 A. I lived on Stone Avenue.

16 Q. Is that here?

17 A. Yeah, right here in Roanoke.

18 Q. How long did you live there?

19 A. My kids was really little. They
20 was just starting school. So, I imagine,
21 three or four years there. And then we
22 moved over to the trailer park, and I've
23 been at the trailer park ever since.

FREEDOM COURT REPORTING

Page 16

1 Q. Okay. So, the Pine Valley Drive
2 is a mobile home?

3 A. Yeah, it's a mobile home park.

4 Q. And do you own the mobile home?

5 A. Yeah. We're paying on it.

6 Q. Tell me the highest -- and this
7 is -- I'll ask you some questions that
8 are kind of personal, and they're not
9 intended to be offensive or anything like
10 that.

11 A. All right.

12 Q. But what would be the highest
13 educational level you got?

14 A. I went to the ninth grade and
15 quit school in the ninth grade and went
16 to work.

17 Q. Where did you go to school?

18 A. Woodland. Woodland, Alabama.

19 Q. And when you got through there,
20 have you gotten any kind of a GED or
21 anything like that?

22 A. No. That's the only education
23 I've got.

FREEDOM COURT REPORTING

Page 17

1 Q. And, again, not to be offensive,
2 but you do read and write?

3 A. Oh, yes.

4 Q. Okay. When you got out of
5 school, where was the first place you
6 went to work?

7 A. I went to work at Handley Mills
8 when I was 16. Back then you could go to
9 work when you was 16.

10 Q. And what was your job there?

11 A. I laid up fillings, stripped
12 quills, doff cloth, a little bit of
13 everything.

14 Q. Say that again. Slow down and
15 tell me that again.

16 A. Stripped quills.

17 Q. What's stripping a quill mean?

18 A. That means you've got some
19 thread left on them, and you have to put
20 it in this machine, and it strips the
21 thread off of it.

22 Q. Okay.

23 A. And doffing means when this big

FREEDOM COURT REPORTING

Page 18

1 roll gets on there, you have to take the
2 roll off and put it on a dolly and push
3 it off. First one thing and then
4 another. When I was 16, that's what I
5 would do.

6 Q. And that's called dolly and
7 claw?

8 A. Yeah. You doff it. You had to
9 doff the whole roll off.

10 MR. TINNEY: I think it's
11 d-o-l-p-h, I believe.

12 Q. (By Mr. Brown) Okay.

13 A. Yeah. You had to doff it off
14 onto a dolly and roll it downstairs.

15 Q. All right. And how long did you
16 work at Handley Mills?

17 A. Until I was 18. I worked there
18 two years.

19 Q. Where did you go to work after
20 that?

21 A. I went to Candlewick Yarn when I
22 was 18.

23 Q. And that's the place that's

FREEDOM COURT REPORTING

Page 19

1 right off the street down here?

2 A. It's off of 431. And I worked
3 there --

4 Q. And does Candlewick Yarn -- is
5 that exactly what it sounds like, they
6 make wicks for candles?

7 A. They make carpet for houses and
8 cars.

9 Q. And how long did you work for
10 Candlewick?

11 A. About 22, nearly 23 years.

12 Q. What was your job there?

13 A. I worked in the shipping
14 department, packing yarn, inspecting
15 yarn, driving a forklift.

16 Q. And when you left there, where
17 did you go?

18 A. I went to Asplundh Tree
19 Surgeons. I worked with them a little
20 while. Then I went to --

21 Q. How long did you work at
22 Asplundh?

23 A. I didn't work with them about

FREEDOM COURT REPORTING

Page 20

1 three or four months. After I lost my
2 job at Candlewick after 20-something
3 years, I was just from here to yonder.

4 Q. Why did you lose your job at
5 Candlewick?

6 A. Well, they claim I was out four
7 times in a six-month period. And they
8 was getting rid of a bunch of people, so
9 they got me.

10 Q. You didn't have to file any kind
11 of a claim or lawsuit, did you?

12 A. No.

13 Q. Okay. What did you do at tree
14 surgeons folks?

15 A. Put the wood in the chipper and
16 chipped all the wood up. After they cut
17 it down on the ground, I chipped all the
18 wood up and run the power saw.

19 Q. Did you ever have any on-the-job
20 injuries there?

21 A. Huh-uh (negative).

22 Q. Is that no?

23 A. No, I never had any injuries on